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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 PHILLIP T. RICKER,

11 Plaintiff,

12 v.

13 CALIFORNIA DEPARTMENT  
14 OF CORRECTIONS, *et al.*,

15 Defendants.  
16

) Case No. CV 09-9417 JVS (JCG)

) **ORDER ADOPTING REPORT AND**  
) **RECOMMENDATION OF UNITED**  
) **STATES MAGISTRATE JUDGE AND**  
) **DENYING PLAINTIFF'S MOTION**  
) **FOR PRELIMINARY INJUNCTION**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended  
18 Complaint, the Magistrate Judge's Report and Recommendation, Plaintiff's  
19 "Opposition to Magistrate's Recommendations and Findings" ("Objections"), and  
20 the remaining record, and has made a *de novo* determination.

21 Plaintiff's Objections generally regurgitate the arguments made in his  
22 Opposition to Defendants' Motion to Dismiss, and lack merit for the reasons set  
23 forth in the Report and Recommendation. The fact remains that Plaintiff's claim is  
24 premised upon his disagreement with prison doctors regarding his specific medical  
25 treatment. Such a claim is not cognizable under the Eighth Amendment.

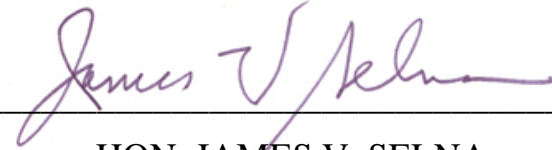
26 Plaintiff's Motion for Preliminary Injunction ("Motion") fails for the same  
27 reason. "A plaintiff seeking a preliminary injunction must establish that he is  
28 likely to succeed on the merits[.]" *Winter v. Natural Res. Def. Council, Inc.*, 129

1 S.Ct. 365, 374 (2008). Plaintiff cannot do so here in light of the Court's adoption  
2 of the Report and Recommendation.

3 Accordingly, IT IS ORDERED THAT:

- 4 1. The Report and Recommendation is approved and adopted.
- 5 2. Judgment be entered dismissing this action with prejudice.
- 6 3. The Clerk serve copies of this Order and the Judgment on the parties.

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9 DATED: \_\_January 18, 2011\_\_

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12 HON. JAMES V. SELNA  
13 UNITED STATES DISTRICT JUDGE  
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